

**Notice of Allowability**

Application No.

09/889,530

Examiner

Frederick F. Krass

Applicant(s)

SKIBO, EDWARD B.

Art Unit

1614

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 4/4/05.
2. ☒ The allowed claim(s) is/are 11-13, 15-20 and 23.
3. ☒ The drawings filed on 8-2-04 are accepted by the Examiner. (2)
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>4-25-05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                   |
|   | 9. <input type="checkbox"/> Other _____.  |

**Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Susan Rosenfield on 4-25-05.

The following changes have been made:

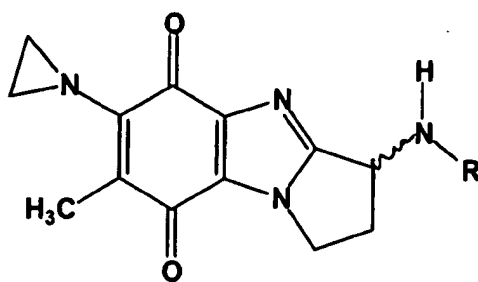
- 1) Claim 11, second line, "neoplastic disease" has been changed to --- cancer ---
- 2) Claim 11, second line, immediately after "comprising" there has been inserted --- an effective amount of ---
- 3) Claim 11, fourth line, "or" has been changed to --- and ---
- 4) Claim 18, first and second lines, "cells and tumors expressing elevated levels of DT-diaphorase" has been deleted.
- 5) Claim 18, third line, immediately after "cancer" there has been inserted --- comprising cancer cells containing DT-diaphorase ---
- 6) Claim 18, last line, the comma after "H" has been deleted.
- 7) Claim 18, last line, immediately after "H" there has been inserted --- and ---
- 8) Claim 18, last line, "or COCH<sub>3</sub>" has been deleted.

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9) Claims 21 and 22 have been canceled without prejudice thereto.

10) The following new claim has been added:

--- Claim 23 (New) A method for treating cancer selected from the group consisting of melanoma, central nervous system cancer, colon cancer, ovarian cancer and lung cancer, comprising administering to an animal or human subject in need thereof an amount sufficient to inhibit said cancer of a compound having a structure as follows:



wherein R is selected from the group consisting of H, CONH<sub>2</sub> and COCH<sub>3</sub>. ----

11) Page 1 of the specification, lines 19 and 29, in each instance "Chart 1" has been deleted and replaced with --- Scheme A ---

12) Page 2 of the specification, line 11, "CHART 1" has been deleted and replaced with --- SCHEME A ---

13) Page 5 of the specification, line 3, page 6, line 23, and page 7, first line, in each instance "Table 1" has been deleted and replaced with --- Scheme B ---

14) Page 19 of the specification, line 12, "Table 1" has been deleted and replaced with --- Scheme C ---

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15) Page 19 of the specification, line 19, "Table 2" has been deleted and replaced with ---

Scheme D ---

16) The following has been inserted on a separate sheet as the abstract:

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#### **ABSTRACT OF THE DISCLOSURE**

Yungamycin A has been demonstrated to have unexpected *in vivo* anticancer activity. New compounds Yungamycin B and C are also disclosed, and have been demonstrated to be specific for DT-diaphorase, as well as to have *in vivo* anticancer activity.

**Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick F. Krass whose telephone number is 571-272-0580. The examiner's schedule is as follows:

Monday: 10:30AM- 7PM;  
Tuesday: 10:30AM - 7PM;  
Wednesday: off;  
Thursday: 10:30AM- 7PM; and  
Friday: 10:30AM-7PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached at 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frederick Krass  
Primary Examiner  
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